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Attorney Docket No: 20341-67618  
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: James M. Kain  
Serial No.: 09/871,199 Art Unit: 3636  
Filed: May 31, 2001 Examiner: Joseph F. Edell  
For: JUVENILE SEAT ARMREST

**REPLY BRIEF**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Examiner's Answer mailed July 14, 2003.

Attached hereto is an amendment canceling appealed claim 1 and rewriting claim 2 in independent form. No change in the substance of claim 2 is occasioned by this amendment. The appeal as to claim 1 is hereby withdrawn.

The Examiner maintains that the armrest of Muoio is a cantilevered armrest "because the armrest is supported and connected to the seat back at only one location, thus meeting the definition cited by the applicant." It is noted that the dictionary definition of cantilever provides for a projecting beam or member supported at only one end. How the Examiner can warp the English language by saying that Muoio is only supported at one end is beyond belief and defies any kind of logic since the reference shows a u-shaped member connected at both ends. Further, the applicant is at a loss to understand how the Examiner can say the armrest of Muoio "is a structure projecting perpendicularly from the seat back which is not supported by any other seat structure and, thus the ends of the armrest are free ends." The ends of the U bolt are both connected to the seat back and there is no structure even if you take only a position of the U bolt which has a free end and which is not also connected to the

seat back. The Examiner's understanding of the English language and attempt to warp the structure of Muoio to meet the terms of the claims is laughable. Even if one were to agree with the Examiner's concept that the entire length of bar 28 is not the armrest (the Examiner thinks only the portion of it is), is also ludicrous in the sense that the other portion of the armrest is attached to the seat back and supports the portion that the Examiner is trying to say is cantilevered. In any event, there is no free end. It is a unitary piece with both ends connected, therefore, it cannot be a cantilevered armrest and it does not have a free end.

As concerns the reference to Coutts, the Examiner completely misconstrues the limitations in the claims. Assuming the first fastener is disclosed as the element connecting element 18 to element 12 adjacent to arrow to numeral 11 in figure 2 and the second fastener is at 24, this does not meet the limitations of the claims, which states that the second fastener be above the seat. It is improper for the Examiner to ignore limitations in the claims. Further, the flange concept is completely lacking. Also note, for example, claim 9, where the lower wing extends below the arm and toward the seat bottom and the second flange is coupled to the lower wing. These are limitations which just cannot be ignored. Of course, the structure of Coutts could possibly be considered a cantilevered beam is ludicrous similarly as was the concept that Muoio has a cantilevered armrest. A U-shaped armrest which is coupled at both ends does not have a free end and is not a cantilevered as per the dictionary definition and as per applicant's use of the definition in describing applicant's structure.

The Examiner's concept that he can change anything without a teaching is completely improper. There must be some teaching in the prior art to make the modifications the Examiner is intending to make and without such a teaching, it is but a hindsight rejection and improper under 35 U.S.C. 103.

The Examiner's thought that it would be an obvious matter of choice, to make the specific relative length of fasteners since the applicant has not disclosed that "having the

specific fastener length and/or types solves any standard problem or is for any particular purpose and it appears that the juvenile vehicle seat would perform equally well without any known length and/or type relative fasteners” is an improper standard for patentability. There is no requirement in the patent laws that applicant’s claim structure has to solve any stated problem or has to be for any particular purpose but only that it be useful and the standard does not have anything to do with whether or not the structure used to reject would perform equally well. Applicant has claimed his invention and is incumbent upon the Examiner to show prior art that anticipates or renders obvious THE CLAIMED structure. Any modification of the prior art must have a reference to teach that the proposed modification would be obvious. Without such a reference, there is no teaching and therefore it is hindsight and improper.

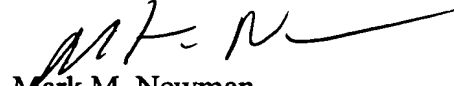
The fact that Coutts has two points of attachment does not provide for the attachment claimed by applicant. Again, the specific structure claimed does not render it obvious because the Examiner wants it to be obvious, but rather the Examiner must provide a teaching for the modification. Thus this Examiner has not done and thus the rejection outline is but hindsight and improper under 35 U.S.C. 103.

Again, the Examiner is wrong when he says that “applicant has to disclose that specific fastener lengths are used to solve a stated problem,” or for any particular purpose is improper. As can be seen from the drawings, the applicant’s connectors are different sized to accommodate the structure and to provide for a more secure support against twisting and anyone looking at the figures of the application would recognize this. But, in any event, the standard referenced by the Examiner on page 6 is not a proper standard and cannot be found anywhere in the patent statute. The Examiner is just relying on hindsight which is improper. Additionally, it is not seen how you could have different size fasteners in Coutts et al. since they would stick out and be snagged. For this additional reason, one would not do what the Examiner proffers is obvious.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response and shortages in other fees, be charged, or any overpayment in fees be credited, to the Account of Barnes & Thornburg, Deposit Account No. 02-1010 (20341/67618).

Respectfully submitted,

BARNES & THORNBURG

A handwritten signature in black ink, appearing to read 'MTN', is written over the printed name.

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